



Oversight, Transparency & Public Management Subcommittee

Thursday, October 24, 2019
9:30 – 11:30 AM
Morris Hall (17 HOB)

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Oversight, Transparency & Public Management Subcommittee

Start Date and Time: Thursday, October 24, 2019 09:30 am

End Date and Time: Thursday, October 24, 2019 11:30 am

Location: Morris Hall (17 HOB)

Duration: 2.00 hrs

Consideration of the following proposed committee bill(s):

PCB OTM 20-01 -- OGSR/RICO Act Investigations

PCB OTM 20-02 -- OGSR/Email Addresses/Department of Highway Safety and Motor Vehicles

PCB OTM 20-03 -- OGSR/Email Addresses/Tax Notices

PCB OTM 20-04 -- OGSR/Payment Instrument Transaction Information/Office of Financial Regulation

Consideration of the following bill(s):

HB 195 Public Records by Rodrigues, R.

NOTICE FINALIZED on 10/17/2019 4:00PM by Jones.Brenda

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 195 Public Records

SPONSOR(S): Rodrigues, R.

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Oversight, Transparency & Public Management Subcommittee		Toliver <i>LT</i>	Smith <i>ms</i>
2) Civil Justice Subcommittee			
3) State Affairs Committee			

SUMMARY ANALYSIS

Article I, s. 24(a) of the State Constitution sets forth the state’s public policy regarding access to government records. The State Constitution guarantees every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government, unless such record is specifically exempt. The Florida Statutes further provide that all state, county, and municipal records are open for personal inspection and copying by any person, and that it is the responsibility of each agency to provide access to public records. A custodian of public records is required to permit any person to inspect and copy records at any reasonable time, under reasonable conditions, and under supervision by the custodian.

The bill prohibits an agency that receives a public record request to inspect or copy a record from responding to such request by filing a civil action against the individual or entity making the request.

The bill does not appear to have a fiscal impact on the state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Public Records Law

Article I, s. 24(a) of the State Constitution sets forth the state's public policy regarding access to government records. The State Constitution guarantees every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government.

Public policy regarding access to government records is addressed further in the Florida Statutes. Section 119.01, F.S., provides that it is the policy of the state that all state, county, and municipal records are open for personal inspection and copying by any person, and that it is the responsibility of each agency¹ to provide access to public records.² Section 119.07(1), F.S., guarantees every person a right to inspect and copy any public record unless an exemption applies. The state's public records laws are construed liberally in favor of granting public access to public records.

Inspection and Copying of Public Records

Current law describes the duties and responsibilities of a custodian of public records³ (records custodian). Section 119.07(1), F.S., requires a records custodian to permit records to be inspected and copied by any person, at any reasonable time,⁴ under reasonable conditions, and under supervision by the records custodian. Generally, a records custodian may not require that a request for public records be submitted in a specific fashion.⁵

An agency is permitted to charge fees for inspection or copying of records. Those fees are prescribed by law and are based upon the nature or volume of the public records requested. Section 119.07(4), F.S., provides that if the nature or volume of the request requires extensive use of information technology or extensive clerical or supervisory assistance, the agency may charge, in addition to the actual cost of duplication, a reasonable service charge based on the cost incurred for the use of information technology and the labor cost that is actually incurred by the agency in responding to the request. The term "labor cost" includes the entire labor cost, including benefits in addition to wages or salary.⁶ Such service charge may be assessed, and payment may be required, by an agency prior to providing a response to the request.⁷

¹ Section 119.011(2), F.S., defines the term "agency" to mean any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of chapter 119, F.S., the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.

² Section 119.011(12), F.S., defines the term "public records" to mean all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.

³ Section 119.011(5), F.S., defines the term "custodian of public records" to mean the elected or appointed state, county, or municipal officer charged with the responsibility of maintaining the office having public records, or his or her designee.

⁴ There is no specific time limit established for compliance with public records requests. A response must be prepared within a reasonable time of the request. *Tribune Co. v. Cannella*, 458 So. 2d 1075 (Fla. 1984). What constitutes a reasonable time for a response will depend on such factors as the volume of records that are responsive to a request, as well as the amount of confidential or exempt information contained within the request.

⁵ See *Dade Aviation Consultants v. Knight Ridder, Inc.*, 800 So. 2d 302 (Fla. 3d DCA 2001) (holding that public records requests need not be made in writing).

⁶ *Bd. of Cnty Comm'rs of Highlands Cnty., v. Colby*, 976 So. 2d 31 (Fla. 2d DCA 2008).

⁷ Section 119.07(4), F.S.; see also *Wootton v. Cook*, 590 So. 2d 1039, 1040 (Fla. 1st DCA 1991) (stating that if a requestor identifies a record with sufficient specificity to permit an agency to identify it and forwards the appropriate fee, the agency must furnish by mail a copy of the record).

Declaratory Judgments

Florida courts have held that the government agency claiming the benefit of a public record exemption bears the burden of proving its right to the exemption.⁸ As such, when a person submits a public records request to an agency and the agency is uncertain if the document is a record that must be disclosed to the public or is otherwise protected from disclosure, the agency may seek a determination from a trial court by filing a complaint for declaratory judgment.⁹ A declaratory judgment¹⁰ is a binding adjudication in which the court establishes the rights of the parties without requiring enforcement of its decision. It is used to resolve legal uncertainties for the parties. Generally, each party bears its own attorney fees when declaratory relief is sought.¹¹ Therefore, if an agency seeks a declaratory judgment and names the requestor as a party, each side will be expected to pay its own attorney fees.

Effect of the Bill

The bill prohibits an agency that receives a public record request to inspect or copy a record from responding to such request by filing a civil action against the individual or entity making the request. By prohibiting an agency from filing a civil action in response to a public records request, the bill appears to prohibit an agency from filing a declaratory judgment with a court to determine whether the disclosure requirements of the public records law apply or whether the requested material is confidential or exempt.

B. SECTION DIRECTORY:

Section 1 amends s. 119.07, F.S., relating to the inspection and copying of records; photographing public records; fees; exemptions.

Section 2 provides an effective date of July 1, 2020.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to impact state government revenues.

2. Expenditures:

The bill does not appear to impact state government expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to impact local government revenues.

⁸ *Cent. Fla. Reg'l Transp. Auth. v. Post-Newsweek*, 157 So. 3d 401, 404 (Fla. 5th DCA 2015); *Barfield v. Sch. Bd. of Manatee Cnty.*, 135 So. 3d 560, 562 (Fla. 2d DCA 2014).

⁹ *See Butler v. City of Hallandale Beach*, 68 So. 3d 278, 279 (Fla. 4th DCA 2011); *see also* Elyssa Cherney, DOJ Moves Pulse Public Records Case to Federal Court (June 28, 2016), <http://www.orlandosentinel.com/news/pulse-orlando-nightclub-shooting/os-pulse-records-preliminary-hearing-20160628-story.html> (last visited Oct. 1, 2019) (The City of Orlando asked for a declaratory judgment after the FBI instructed it to withhold information pending the ongoing investigation and that calls may depict the killing of people, an exemption in Florida's public records laws).

¹⁰ BLACK'S LAW DICTIONARY (10th ed. 2014).

¹¹ Section 86.081, F.S., provides that a court may award attorney fees as are equitable. *See Price v. Tyler*, 890 So. 2d 246 (Fla. 2004) (holding that attorney fees are not recoverable in declaratory relief actions unless there is an independent statutory or contractual basis authorizing recovery of those fees).

2. Expenditures:

The bill does not appear to impact local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have an indeterminate positive fiscal impact on the private sector because individuals and entities that request public records would not be required to pay the legal costs and fees associated with being sued by an agency.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

1 A bill to be entitled
 2 An act relating to public records; amending s. 119.07,
 3 F.S.; prohibiting an agency that receives a request to
 4 inspect or copy a record from responding to such
 5 request by filing a civil action against the
 6 individual or entity making the request; providing an
 7 effective date.

8
 9 Be It Enacted by the Legislature of the State of Florida:

10
 11 Section 1. Paragraph (j) is added to subsection (1) of
 12 section 119.07, Florida Statutes, to read:

13 119.07 Inspection and copying of records; photographing
 14 public records; fees; exemptions.—



15 (1)

16 (j) An agency that receives a request to inspect or copy a
 17 record may not respond to such request by filing a civil action
 18 against the individual or entity making the request.

19 Section 2. This act shall take effect July 1, 2020.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB OTM 20-01 OGSR/RICO Act Investigations
SPONSOR(S): Oversight, Transparency & Public Management Subcommittee
TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Oversight, Transparency & Public Management Subcommittee		Toliver 	Smith 

SUMMARY ANALYSIS

The Open Government Sunset Review Act requires the Legislature to review each public record and each public meeting exemption five years after enactment. If the Legislature does not reenact the exemption, it automatically repeals on October 2nd of the fifth year after enactment.

The Florida Racketeer Influenced and Corrupt Organization (RICO) Act imposes criminal and civil liability on any person who engages in racketeering or the collection of unlawful debt to acquire real property or to establish or operate any enterprise or be associated with such an enterprise. Any property that is used in the course of or derived from the illegal conduct is subject to forfeiture to the state.

Current law provides a public record exemption for information held by an investigative agency pursuant to an investigation of a violation of the Florida RICO Act. The information may be disclosed to a government entity in the performance of its official duties or to a court or tribunal. The information ceases to be exempt from public records requirements once the investigation to which the information pertains is complete.

The bill saves from repeal the public record exemption, which will repeal on October 2, 2020, if this bill does not become law.

The bill does not appear to have a fiscal impact on state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Open Government Sunset Review Act

The Open Government Sunset Review Act (Act)¹ sets forth a legislative review process for newly created or substantially amended public record or public meeting exemptions. It requires an automatic repeal of the exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.²

The Act provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no broader than is necessary to meet one of the following purposes:

- Allow the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption.
- Protect sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision.
- Protect trade or business secrets.³

If, and only if, in reenacting an exemption that will repeal, the exemption is expanded (essentially creating a new exemption), then a public necessity statement and a two-thirds vote for passage are required.⁴ If the exemption is reenacted with grammatical or stylistic changes that do not expand the exemption, if the exemption is narrowed, or if an exception to the exemption is created then a public necessity statement and a two-thirds vote for passage are not required.

Florida Racketeer Influenced and Corrupt Organization (RICO) Act

The Florida RICO Act⁵ makes it a first-degree felony for any person to engage in, or conspire to engage in, racketeering activity or the collection of unlawful debt to establish or operate an enterprise or to be associated with such an enterprise.⁶ The term "racketeering activity" encompasses a broad range of state and federal criminal offenses identified in current law, including burglary, extortion, perjury, bribery, forgery, homicide, sexual battery, as well as various forms of fraud.⁷

In addition to criminal penalties, the Florida RICO Act imposes civil liability for violating certain provisions, including forfeiture to the state of all property, including money, used in the course of, intended for use in the course of, derived from, or realized through conduct in violation of the act.⁸ Current law requires a court to direct the distribution of the proceeds from a forfeiture in the following priority: the clerk of the court to cover statutory fees; claims by people whose interests in the property are preserved (known as "innocent persons"); claims by the Board of Trustees of the Internal Improvement Trust Fund; and restitution for victims of the racketeering activity.⁹

¹ Section 119.15, F.S.

² Section 119.15(3), F.S.

³ Section 119.15(6)(b), F.S.

⁴ Art. I, s. 24(c), FLA. CONST.

⁵ Sections 895.01-895.06, F.S., are known as the "Florida RICO Act."

⁶ Sections 895.03 and 895.04, F.S.

⁷ Section 895.02(8)(a), F.S.

⁸ Section 895.05(2), F.S.

⁹ Section 895.09(1), F.S.

Under the Florida RICO Act, an investigative agency¹⁰ may, during the course of an investigation into civil violations of the act, subpoena witnesses and material if the agency has reason to believe that a person or other enterprise has engaged in conduct that violates a provision of the act.¹¹ The purpose of the subpoena power is “to allow an investigative agency to investigate, collect evidence and determine if a RICO violation has occurred.”¹² All subpoenas issued pursuant to the Florida RICO Act are automatically confidential for 120 days.¹³ The subpoenaed person or entity may only disclose the existence of the subpoena to his or her attorney during the 120-day period.¹⁴ The investigative agency may apply for an extension of the confidentiality period for good cause.¹⁵

Public Record Exemption under Review

In 2015, the Legislature created a public record exemption for information held by an investigative agency pursuant to an investigation of a violation of the Florida RICO Act.¹⁶ The information is confidential and exempt¹⁷ from public records requirements and may only be disclosed by the investigative agency to a governmental entity in the performance of its official duties and to a court or tribunal.¹⁸ The information is no longer confidential and exempt once all investigations to which the information pertains are completed, unless the information is otherwise protected by law.¹⁹ An investigation is considered complete once the investigative agency either files an action or closes its investigation without filing an action.²⁰

The 2015 public necessity statement²¹ for the exemption provides that:

Because a Florida RICO Act investigation conducted by an investigative agency may lead to the filing of a civil action, the premature release of the information held by such investigative agency could frustrate or thwart the investigation and impair the ability of the investigative agency to effectively and efficiently administer its duties under the Florida RICO Act . . . This exemption also protects the reputation of the potential defendant in the event that the investigation is closed without the filing of a civil action. Further, without this exemption, a potential defendant under the Florida RICO Act may learn of the investigation and dissipate his or her assets and thwart any future enforcement action under the act.²²

Pursuant to the Open Government Sunset Review Act, the exemption will repeal on October 2, 2020, unless reenacted by the Legislature.

¹⁰ Section 895.02(6), F.S., defines “investigative agency” to mean the Department of Legal Affairs, the Office of Statewide Prosecution, or the office of a state attorney.

¹¹ Section 895.06, F.S.

¹² *Check 'N Go of Florida, Inc. v. State*, 790 So.2d 454, 457 (Fla. 5th DCA 2001), *review denied* 817 So.2d 845 (Fla. 2002).

¹³ Section 895.06(2), F.S.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ Section 895.06(7), F.S.

¹⁷ There is a difference between records the Legislature designates exempt from public record requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. (See *WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), *review denied* 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released, by the custodian of public records, to anyone other than the persons or entities specifically designated in statute. (See Attorney General Opinion 85-62, Aug. 1, 1985).

¹⁸ Section 895.06(7)(b), F.S.

¹⁹ Section 895.06(7)(c), F.S.

²⁰ Section 895.06(7)(d), F.S.

²¹ Article I, s. 24(c), FLA. CONST., requires each public record exemption “state with specificity the public necessity justifying the exemption.”

²² Chapter 2015-99, L.O.F.

During the 2019 interim, subcommittee staff sent a questionnaire to the Department of Legal Affairs (DLA).²³ Between July 1, 2015, and August 1, 2019, the DLA initiated five civil RICO investigations, of which three have been completed.²⁴ During the same time period the DLA received three public record requests for the confidential information; pursuant to the exemption under review the information was not released.²⁵ The DLA stated that the agency “thinks the exemption has accomplished its purpose of preventing the frustration or thwarting of a RICO investigation by the premature release of investigative information.”²⁶ The DLA recommended that the exemption be reenacted as is.²⁷

Effect of the Bill

The bill removes the scheduled repeal date of the public record exemption, thereby maintaining the public record exemption for information held by an investigative agency pursuant to an investigation of a violation of the Florida RICO Act.

B. SECTION DIRECTORY:

Section 1 amends s. 895.06, F.S., to save from repeal the public record exemption for information held by an investigative agency pursuant to an investigation of a violation of the Florida RICO Act.

Section 2 provides an effective date of October 1, 2020.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

²³ Open Government Sunset Review Questionnaire, DLA Response, Sept. 19, 2019, on file with the Oversight, Transparency & Public Management Subcommittee.

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

1 A bill to be entitled
 2 An act relating to a review under the Open Government
 3 Sunset Review Act; amending s. 895.06, F.S., which
 4 provides an exemption from public records requirements
 5 for certain documents and information held by an
 6 investigative agency pursuant to an investigation
 7 relating to an activity prohibited under the Florida
 8 RICO Act; removing the scheduled repeal of the
 9 exemption; providing an effective date.

10

11 Be It Enacted by the Legislature of the State of Florida:

12

13 Section 1. Paragraph (e) of subsection (7) of section
 14 895.06, Florida Statutes, is amended to read:

15 895.06 Civil investigative subpoenas; public records
 16 exemption.—

17 (7)

18 ~~(e) This subsection is subject to the Open Government~~
 19 ~~Sunset Review Act in accordance with s. 119.15 and shall stand~~
 20 ~~repealed on October 2, 2020, unless reviewed and saved from~~
 21 ~~repeal through reenactment by the Legislature.~~

22 Section 2. This act shall take effect October 1, 2020.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB OTM 20-02 OGSR/Email Addresses/Department of Highway Safety and Motor Vehicles
SPONSOR(S): Oversight, Transparency & Public Management Subcommittee
TIED BILLS: IDEN./SIM. **BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Oversight, Transparency & Public Management Subcommittee		Villa CV	Smith MJD

SUMMARY ANALYSIS

The Open Government Sunset Review Act requires the Legislature to review each public record and each public meeting exemption five years after enactment. If the Legislature does not reenact the exemption, it automatically repeals on October 2nd of the fifth year after enactment.

The Department of Highway Safety and Motor Vehicles (department) is the custodian of motor vehicle records containing personal information about drivers and motor vehicle owners. The department is authorized to collect e-mail addresses and use e-mail in lieu of the United States Postal Service for the purpose of providing title certificate notifications, providing motor vehicle renewal notices, and providing driver license renewal notices.

Current law provides a public records exemption for e-mail addresses held by the department for the purpose of providing notifications and renewal notices.

The bill saves from repeal the public records exemption, which will repeal on October 2, 2020, if this bill does not become law.

The bill does not appear to have a fiscal impact on state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Open Government Sunset Review Act

The Open Government Sunset Review Act (Act)¹ sets forth a legislative review process for newly created or substantially amended public record or public meeting exemptions. It requires an automatic repeal of the exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.²

The Act provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no broader than is necessary to meet one of the following purposes:

- Allow the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption.
- Protect sensitive personal information that if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision.
- Protect trade or business secrets.³

If, and only if, in reenacting an exemption that will repeal, the exemption is expanded (essentially creating a new exemption), then a public necessity statement and two-thirds vote for passage are required.⁴ If the exemption is reenacted with grammatical or stylistic changes that do not expand the exemption, if the exemption is narrowed, or if an exception to the exemption is created, then a public necessity statement and a two-thirds vote for passage are not required.

Department of Highway Safety and Motor Vehicles and E-mail Addresses

The Department of Highway Safety and Motor Vehicles (department) is the records custodian of motor vehicle records,⁵ which contain personal information about drivers and motor vehicle owners. Florida's motor vehicle records contain personal information such as a driver's social security number, driver license number, name, address, telephone number, and medical or disability information. The department is authorized to collect e-mail addresses and use e-mail, in lieu of the United States Postal Service, as a method of providing title certificate notifications,⁶ for the purpose of providing motor vehicle renewal notices,⁷ and for the purpose of providing driver license renewal notices.⁸

¹ Section 119.15, F.S.

² Section 119.15(3), F.S.

³ Section 119.15(6)(b), F.S.

⁴ Section 24(c), Art. I, FLA. CONST.

⁵ Section 119.0712(2)(a), defines the term "motor vehicle record" to mean "any record that pertains to a motor vehicle operator's permit, motor vehicle title, motor vehicle registration, or identification card issued by the Department of Highway Safety and Motor Vehicles."

⁶ Section 319.40(3), F.S.

⁷ Section 320.95(2), F.S.

⁸ Section 322.08(10), F.S.

Public Record Exemption under Review

In 2015, the Legislature created a public record exemption for e-mail addresses held by the department for the purpose of providing notification regarding title certificates, motor vehicle registration renewals, or driver license renewals.⁹

The 2015 public necessity statement¹⁰ for the exemption provides that:

The Legislature finds that . . . [e-mail] addresses are unique to each individual and, when combined with other personal identifying information, can be used for identity theft, consumer scams, unwanted solicitations, or other invasive contacts. The public availability of personal e-mail addresses puts department customers at increased risk of these problems. Such risk may be significantly limited by permitting the department to keep customer e-mail addresses exempt. The Legislature finds that the risks to consumers outweigh the state's public policy favoring open government.¹¹

Pursuant to the Open Government Sunset Review Act, the exemption will repeal on October 2, 2020, unless reenacted by the Legislature.

During the 2019 interim, subcommittee staff met with staff from the department to discuss the exemption. The department has collected 13 million e-mail addresses for both active and inactive drivers. As of August 6, 2019, the department has not received a public records request for the exempt information. The department recommends that the public records exemption be reenacted as is.

Effect of the Bill

The bill removes the scheduled repeal date of the public record exemption, thereby maintaining the public record exemption for e-mail addresses held by the department for the purpose of providing title certificate notifications, providing motor vehicle registration renewal notices, and providing driver license renewal notices.

B. SECTION DIRECTORY:

Section 1 amends s. 119.0712, F.S., to save from repeal the public record exemption for certain e-mail addresses held by the department and corrects a cross reference.

Section 2 provides an effective date of October 1, 2020.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

⁹ Section 119.0712(2)(c), F.S.

¹⁰ Article I, s. 24(c), FLA. CONST., requires each public record exemption "state with specificity the public necessity justifying the exemption."

¹¹ Chapter 2015-32, L.O.F.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

In 2016, the Legislature enacted ch. 2016-242, L.O.F., which amended s. 322.08, F. S., and moved s. 322.08(9), F.S., to s. 322.08(10), F.S. However, the reference to that subsection in s. 119.0712(2)(c), F. S., was not amended to reflect this change.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

1 A bill to be entitled
 2 An act relating to a review under the Open Government
 3 Sunset Review Act; amending s. 119.0712, F.S., which
 4 provides an exemption from public records requirements
 5 for certain e-mail addresses collected by the
 6 Department of Highway Safety and Motor Vehicles;
 7 correcting a cross-reference; removing the scheduled
 8 repeal of the exemption; providing an effective date.
 9

10 Be It Enacted by the Legislature of the State of Florida:
 11

12 Section 1. Paragraph (c) of subsection (2) of section
 13 119.0712, Florida Statutes, is amended to read:

14 119.0712 Executive branch agency-specific exemptions from
 15 inspection or copying of public records.—

16 (2) DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES.—

17 (c) E-mail addresses collected by the Department of
 18 Highway Safety and Motor Vehicles pursuant to s. 319.40(3), s.
 19 320.95(2), or s. 322.08 (10) ~~(9)~~ are exempt from s. 119.07(1) and
 20 s. 24(a), Art. I of the State Constitution. This exemption
 21 applies retroactively. ~~This paragraph is subject to the Open
 22 Government Sunset Review Act in accordance with s. 119.15 and
 23 shall stand repealed on October 2, 2020, unless reviewed and
 24 saved from repeal through reenactment by the Legislature.~~

25 Section 2. This act shall take effect October 1, 2020.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB OTM 20-03 OGSR/Email Addresses/Tax Notices
SPONSOR(S): Oversight, Transparency & Public Management Subcommittee
TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Oversight, Transparency & Public Management Subcommittee		Villa LV	Smith MB

SUMMARY ANALYSIS

The Open Government Sunset Review Act requires the Legislature to review each public record and each public meeting exemption five years after enactment. If the Legislature does not reenact the exemption, it automatically repeals on October 2nd of the fifth year after enactment.

Tax collectors are charged with sending tax notifications to taxpayers. In 2011, tax collectors were granted authority to send certain notices electronically. Specifically, tax collectors may send e-mail notifications to taxpayers participating in the prepayment installment plan, or to taxpayers that have consented to receiving e-mail notifications.

Current law provides a public record exemption for taxpayer e-mail addresses held by tax collectors for any of the following purposes:

- Obtaining the taxpayer's consent to send a tax notice via e-mail;
- Sending the taxpayer a quarterly tax notice for prepayment of estimated taxes;
- Sending the taxpayer an additional tax notice or delinquent tax notice; or
- Sending a third party, mortgagee, or vendee a tax notice.

The bill saves from repeal the public records exemption, which will repeal on October 2, 2020, if this bill does not become law.

The bill does not appear to have a fiscal impact on state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Open Government Sunset Review Act

The Open Government Sunset Review Act (Act)¹ sets forth a legislative review process for newly created or substantially amended public record or public meeting exemptions. It requires an automatic repeal of the exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.²

The Act provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no broader than is necessary to meet one of the following purposes:

- Allow the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption.
- Protect sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision.
- Protect trade or business secrets.³

If and only if, in reenacting an exemption that will repeal, the exemption is expanded (essentially creating a new exemption), then a public necessity statement and a two-thirds vote for passage are required.⁴ If the exemption is reenacted with grammatical or stylistic changes that do not expand the exemption, if the exemption is narrowed, or if an exception to the exemption is created, then a public necessity statement and a two-thirds vote for passage are not required.

Florida County Tax Collectors

In Florida, tax collectors are constitutional officers duly elected from their counties of residence and deliver a myriad of services to include the collection of ad valorem and other taxes.⁵ Tax collectors, after local governments adopt millage rates, send annual property tax bills that are due and payable on November 1 of each year, or as soon as the certified tax roll is received.⁶ Within 20 working days of receipt of the certified ad valorem tax roll, the tax collector will mail to each taxpayer a tax notice stating the amount due and advising the taxpayer of any discounts for early payment.⁷ Notice of the right to prepay taxes through participation in a prepayment installment plan will also be provided.⁸ If the taxpayer elects to participate in the prepayment installment plan, they will receive a discounted rate on their property taxes.⁹ The tax collector will send a quarterly tax notice with the discounted rates to all plan participants.¹⁰ Taxes are considered delinquent if they are not paid by April 1 following the year in which they are assessed.¹¹ By April 30, the tax collector will send an additional tax notice to each taxpayer whose payment has not been received notifying that taxpayer that a tax certificate on the property will be sold for delinquent taxes that are not paid in full.¹² Additionally, upon written request, a

¹ Section 119.15, F.S.

² Section 119.15(3), F.S.

³ Section 119.15(6)(b), F.S.

⁴ Article I, s. 24(c), FLA. CONST.

⁵ Article VIII, s. 1(d), FLA. CONST.

⁶ Section 197.333, F.S.

⁷ Section 197.322(3), F.S.

⁸ Section 197.222(5), F.S.

⁹ Section 197.222(1), F.S.

¹⁰ Section 197.222(3), F.S.

¹¹ Section 197.333, F.S.

¹² Section 197.343(1), F.S.

tax notice will be sent to a third party designated by the taxpayer,¹³ or in specified circumstances, to a mortgagee¹⁴ or vendee.¹⁵

In 2011, tax collectors were given authority to send certain notices electronically.¹⁶ Tax collectors may send notices of taxation to taxpayers by e-mail if the taxpayer is a participant in a prepayment installment plan,¹⁷ or if the tax collector has received express consent from the taxpayer to do so.¹⁸

Public Record Exemption under Review

In 2015, the Legislature created a public record exemption for taxpayer e-mail addresses held by tax collectors for any of the following purposes:

- Obtaining a taxpayer's consent to send the tax notice described in s. 197.322(3), F.S.;
- Sending a quarterly tax notice for prepayment of estimated taxes to the tax payer pursuant to s. 197.222(3), F.S.;
- Sending an additional tax notice or delinquent tax notice to the taxpayer pursuant to s. 197.343, F.S.; or
- Sending a tax notice to a designated third party, mortgagee, or vendee pursuant to s. 197.344(1), F.S.

E-mail addresses held by tax collectors for other purposes, however, are not exempt from public record requirements. If a tax collector holds an e-mail address for the above mentioned reasons and the same e-mail address is held for a purpose other than those reasons, then the e-mail address would be protected from public disclosure in the former example, but not in the latter. In other words, a taxpayer's e-mail address could be exempt from public disclosure for one purpose and non-exempt for another.

The 2015 public necessity statement¹⁹ for the exemption provides that:

The Legislature finds that . . . [e-mail] addresses are unique to the individual and, when combined with other personal identifying information, can be used for identity theft, taxpayer scams, and other invasive contacts. The public availability of personal e-mail addresses invites and exacerbates thriving and well-documented criminal activities and puts taxpayers at increased risk of harm. Such harm would be significantly curtailed by allowing a tax collector to preserve the confidentiality of taxpayer e-mail addresses.²⁰

Pursuant to the Open Government Sunset Review Act, the exemption will repeal on October 2, 2020, unless reenacted by the Legislature.

During the 2019 interim, subcommittee staff sent a questionnaire to the 67 Florida County Tax Collector Offices. Thirty-three of the offices responded to the questionnaire. A slight majority indicated that they currently use e-mail to provide at least one of the tax notices described in the exemption.²¹

When asked whether the exemption should be repealed, reenacted as is, or reenacted with changes, a large majority of respondents indicated the exemption should be reenacted as is, with none indicating it

¹³ A taxpayer must be 60 years old or older to designate a third party to receive a tax notice. Section 197.344(1)(a), F.S.

¹⁴ The mortgagee, to receive a tax notice, must be a trustee of an escrow account for ad valorem taxes due on the property. Section 197.344(1)(b), F.S.

¹⁵ The vendee, to receive a tax notice, must be the vendee of an unrecorded or recorded contract for deed. Section 197.344(1)(c), F.S.

¹⁶ Chapter 2011-151, L.O.F.

¹⁷ Section 197.222(3), F.S.

¹⁸ Sections 197.322(3), 197.343, and 197.344(1), F.S.

¹⁹ Article I, s. 24(c), FLA. CONST., requires each public record exemption "state with specificity the public necessity justifying the exemption."

²⁰ Chapter 2015-13, L.O.F.

²¹ Open Government Sunset Review Questionnaire, County Tax Collector Office Responses, July 18, 2019, through Aug. 15, 2019, on file with the House Oversight, Transparency & Public Management Subcommittee.

should be repealed.²² Three respondents recommended the exemption be expanded.²³ The respondents indicated that they believe the exemption protects taxpayers from fraudsters and encourages public participation in electronic billing.²⁴

Effects of the Bill

The bill removes the scheduled repeal date of the public record exemption, thereby maintaining the public record exemption for taxpayer e-mail addresses held by tax collectors for certain tax notice purposes.

B. SECTION DIRECTORY:

Section 1 amends s. 197.3225, F.S., to save from repeal the public record exemption for taxpayer e-mail addresses held by tax collectors for certain tax notice purposes.

Section 2 provides an effective date of October 1, 2020.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

²² *Id.*

²³ The three respondents that recommended the exemption be reenacted with changes were Manatee, Sarasota, and Sumter. The Manatee County Tax Collector's Office suggested that all taxpayer e-mail addresses held by tax collectors be exempt from public records requirements. The Sarasota County Tax Collector's Office suggested offering protections for local business tax notices. The Sumter County Tax Collector's Office suggested that email addresses provided by a taxpayer during the cashiering process should be exempt from public records requirements. *Id.*

²⁴ *Id.*

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

26 | notice to the taxpayer pursuant to s. 197.343.



27 | (4)~~(d)~~ Sending a tax notice to a designated third party,
28 | mortgagee, or vendee pursuant to s. 197.344(1).

29 | ~~(2) This section is subject to the Open Government Sunset~~
30 | ~~Review Act in accordance with s. 119.15 and shall stand repealed~~
31 | ~~on October 2, 2020, unless reviewed and saved from repeal~~
32 | ~~through reenactment by the Legislature.~~

33 | Section 2. This act shall take effect October 1, 2020.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB OTM 20-04 OGSR/Payment Instrument Transaction Information/Office of Financial Regulation
SPONSOR(S): Oversight, Transparency & Public Management Subcommittee
TIED BILLS: IDEN./SIM. **BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Oversight, Transparency & Public Management Subcommittee		Harrington 	Smith 

SUMMARY ANALYSIS

The Open Government Sunset Review Act requires the Legislature to review each public record and each public meeting exemption five years after enactment. If the Legislature does not reenact the exemption, it automatically repeals on October 2nd of the fifth year after enactment.

The Office of Financial Regulation (OFR) licenses and regulates check cashers. Florida law imposes various requirements on check cashiers, including that such licensees maintain certain payment instrument transaction information. In addition, certain information related to each payment instrument being cashed that exceeds \$1,000 must be entered into OFR's check cashing database. Current law provides that payment instrument transaction information held by OFR pursuant to the database that identifies a licensee, payor, payee, or conductor is confidential and exempt from public record requirements. OFR may enter into information-sharing agreements with the Department of Financial Services, law enforcement agencies, and other governmental agencies in certain circumstances, and require those agencies to maintain the confidentiality of the information, except as required by court order. In addition, OFR may release payment instrument information in the aggregate, so long as the information released does not reveal information that identifies a licensee, payor, payee, or conductor.

The bill saves from repeal the public record exemption, which will repeal on October 2, 2020, if this bill does not become law.

The bill does not appear to have a fiscal impact on the state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Open Government Sunset Review Act

The Open Government Sunset Review Act¹ sets forth a legislative review process for newly created or substantially amended public record or public meeting exemptions. It requires an automatic repeal of the exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.²

The Act provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no broader than is necessary to meet one of the following purposes:

- Allow the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption.
- Protect sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision.
- Protect trade or business secrets.³

If, and only if, in reenacting an exemption that will repeal, the exemption is expanded (essentially creating a new exemption), then a public necessity statement and a two-thirds vote for passage are required.⁴ If the exemption is reenacted with grammatical or stylistic changes that do not expand the exemption, if the exemption is narrowed, or if an exception to the exemption is created⁵ then a public necessity statement and a two-thirds vote for passage are not required.

Office of Financial Regulation Check Cashing Regulations

The Office of Financial Regulation (OFR) licenses and regulates check cashers pursuant to chapter 560, F.S. Florida law imposes various requirements on check cashiers, including requiring the licensee to maintain copies of each payment instrument cashed.⁶ If the payment instrument exceeds \$1,000, the following additional information must be maintained:

- Customer files, as prescribed by rule,⁷ on all customers who cash corporate payment instruments that exceed \$1,000;
- A copy of the personal identification that bears a photograph of the customer used as identification and presented by the customer; and
- A thumbprint of the customer taken by the licensee when the payment instrument is presented for negotiation or payment.⁸

In addition to the information that a licensee must maintain, the following information must be entered into the check cashing database operated by OFR before entering into each check cashing transaction for each payment instrument being cashed if the payment exceeds \$1,000:

¹ Section 119.15, F.S.

² Section 119.15(3), F.S.

³ Section 119.15(6)(b), F.S.

⁴ Section 24(c), Art. I of the State Constitution.

⁵ An example of an exception to a public record exemption would be allowing another agency access to confidential and exempt records.

⁶ Section 560.310(1), F.S.

⁷ Rule 69V-560.704, F.A.C.

⁸ Section 560.310(2)(a)-(c), F.S.

- Transaction date;
- Payor name as displayed on the payment instrument;
- Payee name as displayed on the payment instrument;
- Conductor name, if different from the payee name;
- Amount of the payment instrument;
- Amount of currency provided;
- Type of payment instrument, which may include personal, payroll, government, corporate, third-party, or another type of instrument;
- Amount of the fee charged for cashing of the payment instrument;
- Branch or location where the payment instrument was accepted;
- The type of identification and the identification number presented by the payee or conductor;
- Payee's workers' compensation insurance policy number or exemption certificate number, if the payee is a business; and
- Such additional information as required by rule.⁹

OFR must ensure that the check cashing database provides an interface with the Secretary of State's database for purposes of verifying corporate registration and articles of incorporation and with the Department of Financial Services' (DFS) database for purposes of determining proof of coverage for workers' compensation.¹⁰

Public Record Exemption under Review

In 2013, the Legislature created a public record exemption for payment instrument transaction information (check cashing database information) held by OFR that identifies a licensee, payor, payee, or conductor.¹¹ OFR may enter into information-sharing agreements with DFS, law enforcement agencies, and other governmental agencies in certain circumstances, and require those agencies to maintain the confidentiality of the information, except as required by court order.

The 2013 public necessity statement for the exemption provided that use of the check cashing database is necessary to deter money laundering through these entities and to prevent fraud, including workers' compensation fraud. In addition, it provided that:

[T]he public availability of payment instrument transaction information would reveal sensitive, personal financial information about payees and conductors who use check-cashing programs, including paycheck amounts, salaries, and business activities, as well as information regarding the financial stability of these persons. Such information is traditionally private and sensitive. Protecting the confidentiality of information that would identify these payees and conductors would provide adequate protection for these persons while still providing public oversight of the program. The public release of payment instrument transaction information would also identify licensees or payors and reveal private business transaction information that is traditionally private and could be used by competitors to harm other licensee or payors in the marketplace. If such information were publicly available, competitors could determine the amount of business conducted by other licensees or payors.¹²

During the 2017 interim, subcommittee staff met with staff from OFR and DFS as part of its review under the Open Government Sunset Review Act. OFR and DFS recommended that the exemption be reenacted noting that the exemption has allowed the agencies to properly regulate licensees and to monitor and prevent fraud while preventing the disclosure of information that would identify the licensee payor, payee, or conductor. In 2018, the Legislature amended the exemption to clarify that OFR may

⁹ Section 560.310(1)(d), F.S.

¹⁰ Section 560.310(5), F.S.

¹¹ Chapter 2013-155, L.O.F.; codified as s. 560.312, F.S.

¹² Section 2, ch. 2013-155, L.O.F.

release payment instrument transaction information in the aggregate, so long as the information released does not reveal information that identifies a licensee, payor, payee, or conductor.¹³ The 2018 legislation also extended the repeal date of the public record exemption, moving it from 2018 to 2020.

During the 2019 interim, subcommittee staff discussed the exemption with OFR and OFR reiterated the importance of maintaining the exemption to protect licensees and the personal financial information of consumers. According to OFR, disclosure of such information could expose such individuals to significant risk for identity theft.

Pursuant to the Open Government Sunset Review Act, the exemption will repeal on October 2, 2020, unless reenacted by the Legislature.¹⁴

Effect of the Bill

The bill removes the repeal date thereby maintaining the public record exemption for payment instrument transaction information held by OFR pursuant to s. 560.310, F.S., which identifies a licensee, payor, payee, or conductor.

B. SECTION DIRECTORY:

Section 1 amends s. 560.312, F.S., to save from repeal the public record exemption for payment instrument transaction information held by OFR that reveals a licensee, payor, payee, or conductor.

Section 2 provides an effective date of October 1, 2020.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

¹³ Chapter 2018-116, L.O.F.; codified as s. 560.312(4), F.S.

¹⁴ Section 560.312(3), F.S.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None. The bill does not authorize or require rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

1 A bill to be entitled
 2 An act relating to a review under the Open Government
 3 Sunset Review Act; amending s. 560.312, F.S., which
 4 provides an exemption from public record requirements
 5 for certain payment instrument transaction information
 6 held by the Office of Financial Regulation; removing
 7 the scheduled repeal of the exemption; providing an
 8 effective date.

9
 10 Be It Enacted by the Legislature of the State of Florida:

11
 12 Section 1. Subsection (4) of section 560.312, Florida
 13 Statutes, is amended to read:

14 560.312 Database of payment instrument transactions;
 15 confidentiality.—

16 ~~(4) This section is subject to the Open Government Sunset~~
 17 ~~Review Act in accordance with s. 119.15 and shall stand repealed~~
 18 ~~on October 2, 2020, unless reviewed and saved from repeal~~
 19 ~~through reenactment by the Legislature.~~

20 Section 2. This act shall take effect October 1, 2020.